

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF TENNESSEE
at CHATTANOOGA

UNITED STATES OF AMERICA)
)
)
v.) 1:05-cv-115/1:03-cr-073
)
) Edgar
PATRICIA MCCURRY))

M E M O R A N D U M

The Court has received a motion to vacate, set aside, or correct sentence under 28 U.S.C. § 2255 from Patricia McCurry (“McCurry”). McCurry challenges her November 27, 2003, guilty plea to conspiracy to distribute in excess of 500 grams of methamphetamine. McCurry contends her sentence was unconstitutionally enhanced and that trial counsel was ineffective [Court File No. 1].

This is McCurry’s second § 2255 motion challenging her 2003 conviction and sentence. Her first § 2255 motion alleged her sentence was unconstitutionally enhanced. Petitioner’s first § 2255 motion was dismissed. *United States v. Patricia McCurry*, Civil Action No. 1:04-cv-327 (E.D. Tenn. 2004).

In accordance with the “Antiterrorism and Effective Death Penalty Act of 1996,” effective April 24, 1996, McCurry cannot file a second or successive § 2255 motion in the district court until she has moved in the United States Court of Appeals for the Sixth Circuit

for an order authorizing the district court to consider the motion. This Court has not received an order from the Sixth Circuit authorizing the Court to consider the pending motion.

Accordingly, the Clerk will be **DIRECTED** to **TRANSFER** this action to the United States Court of Appeals for the Sixth Circuit, pursuant to 28 U.S.C. § 1631. *See Sims v. Terbush*, 111 F.3d 45, 47 (6th Cir. 1997).

An order will enter.

/s/ R. Allan Edgar
R. ALLAN EDGAR
CHIEF UNITED STATES DISTRICT JUDGE